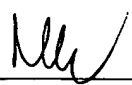


<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/379,167	EISEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John L Young	3622	

All participants (applicant, applicant's representative, PTO personnel):

- (1) John L Young. (3) \_\_\_\_.
- (2) Jason Far-hadian. (4) \_\_\_\_.

Date of Interview: 12 October 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_.

Claim(s) discussed: Claim 1.

Identification of prior art discussed: Capitel US 6,449,634.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

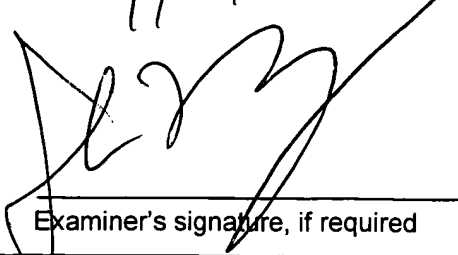
Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

JOHN LEONARD YOUNG, ESQ.  
PRIMARY EXAMINER

11-15-04

  
Examiner's signature, if required

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representative discussed proposed claim amendments of claim 1 in an effort to find patentable subject matter. And Applicant's representative requested that the Examiner conduct a provisional update search to determine whether or not the proposed amendments would distinguish over the prior art. The Examiner declined stating that an update search would be conducted if Applicant submitted formal amendments in the form of either an amendment after final or submission of an RCE. .

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As per claim 12, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery=“select opened,opened\_count from catalogs where catalog\_id=”+*

*Request.QueryString(“catid”)*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

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```
If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),  
Opened_count=1 where catalog_id="+  
Request.QueryString("catid"). . . .
```

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code' . . . "* and *member\_id* and *catalog\_id . . . "* etc.

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13; col. 12, ll. 53-61; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . ."

Capiel (col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"catalog\_url . . . [and] opened\_count . . . "* The Examiner interprets this disclosure as showing a "wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . ." (i.e., a web site for product catalogs); the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed

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element and limitations of “the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .”; however, even though, Capiel lacks a verbatim recitation of “wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) implicitly shows “wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) as implicitly showing “wherein the log file includes information regarding [sic] number of times the consumer accesses a particular web site. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 13, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

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Capiel at least at (FIG. 3B) discloses an online: *“shopping basket. . . .”*

Capiel at least at (FIG. 3B) discloses: *“Shop AOL. . . .”*

Capiel at least at (col. 1, ll. 43-65) discloses: *“One goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products. . . .”*

The Examiner interprets these disclosures as implicitly showing: “wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”; however, even though,

Capiel lacks a verbatim recital of “the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”;

it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; and col. 1, ll. 43-65) implicitly shows “wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; and col. 1, ll. 43-65) as implicitly showing “wherein the log file includes information regarding any purchase the consumer makes while visiting the one or more web site[sic]. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means *“to identify the audience and tailor the advertising to that audience. . . .”*

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(see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 14, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel at least at (col. 10, ll. 26-67; and FIG. 7) discloses: *“the E-mail sensor first executes the HTML image tag in an HTML enabled E-mail client. . . . If the E-mail message has been opened for a second or grater time . . . then an E-mail counter is incremented in the E-mail sensor database. . . . This typically occurs every time the E-mail client software re-opens the E-mail message and executes the HTML image tag which again calls the sensor server program o the E-mail sensor server . . . and increments the counter. In another specific embodiment a JavaScript or Java applet could be used to monitor how long a time interval the E-mail message is open. . . .”*

Capiel at least at (col. 11, ll. 1-35) *“oConn.open Session ('DIDB\_connectionsString') browsweType=Request.ServerVariables('HTTP\_User\_Again')”*

The Examiner interprets these disclosures as implicitly showing: “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “the log file includes duration of the consumer’s visit to a particular web site. . . .”; however, even though,



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Capiel lacks a verbatim recital of “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .”;

it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 10, ll. 26-67; col. 11, ll. 1-35; and FIG. 7) implicitly shows “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 10, ll. 26-67; col. 11, ll. 1-35; and FIG. 7) as implicitly showing “wherein the log file includes duration of the consumer’s visit to a particular web site. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 15, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 10.

Capiel (col. 1, ll. 20-35) discloses: “*Targeting advertising to customer profiles has been a method to improve E-mail sales. . . .*”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

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Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) shows a “master database. . . .”

Capiel at least at (col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows a “log file. . . .”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 20-35; col. 1, ll. 49-53; and col. 7, ll. 64-67 ; FIG. 7; col. 10, ll. 25-58; col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . . .”; however, even though,

Capiel lacks a verbatim recital of “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 20-35; col. 1, ll. 49-53; and col. 7, ll. 64-67 ; FIG. 7; col. 10, ll. 25-58; col. 12, ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (col. 1, ll. 20-35; col. 1, ll. 49-53; and col. 7, ll. 64-67 ; FIG. 7; col. 10, ll. 25-58; col. 12,

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ll. 10-13; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “developing a consumer master database based upon the log file; querying the master database; and determining consumer preferences. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 16, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (6,449,634; and col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

Capiel (col. 3, ll. 5-22) discloses: “*Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-*

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*mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail"0=" " Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

*Set . . .*

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*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address*

*'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

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Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *“When the HTML document is executed on the E-mail client, the Java ‘object’ tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client’ software type, i.e., ‘browserType’, and E-mail address, i.e., ‘urlinfo’, is sent from the E-mail client to the E-mail sensor server. . . .”*

Capiel (col. 1, ll. 43-67) discloses: *“The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .”*

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

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Capiel (col. 12, ll. 10-13) discloses:

*"getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . ."*

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Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’ . . . .”* and *“member\_id and catalog\_id . . . .”* etc.

The Examiner interprets these disclosures as implicitly showing: “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and



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col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the master database includes a plurality of segments including an email look up segment that includes a listing of a plurality of consumer electronic mail addresses with corresponding unique identifiers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 17, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

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Capiel (6,449,634 col. 1, ll. 24-26) discloses: *"Vendor lists of prior customers provide a basis to identify the target audience."*

Capiel (col. 1, ll. 43-67) discloses: *"The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . ."*

Capiel (col. 2, ll. 15-20) discloses: *"These embodiments may also include monitoring the status of the E-mail message received at the E-mail client."*

Capiel (col. 12, ll. 10-13) discloses:

*"getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

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*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid") < > " " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . ."*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ."* etc.

*The Examiner interprets these disclosure as showing "the master database includes a consumer information segment that contains consumer related information. . . ."; the*

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above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of *“the master database includes a consumer information segment that contains consumer related information. . . .”*; however, even though,

Capiel lacks explicit recitation of *“the master database includes a consumer information segment that contains consumer related information. . . .”*; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 24-26; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 25-58; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows *“the master database includes a consumer information segment that contains consumer related information. . . .”*; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing *“the master database includes a consumer information segment that contains consumer related information. . . .”* because modification and interpretation of the cited disclosure of Capiel would have provided means *“to identify the audience and tailor the advertising to that audience. . . .”* (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 18, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 43-67) discloses: “*The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .*”

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .*” and “*member\_id and catalog\_id. . . .*” etc.

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The Examiner interprets these disclosures as showing “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; furthermore,

Capiel (col. 9, ll. 1-40; and FIG. 3B) inherently shows “the master database includes a promotional material segment that includes information regarding promotional materials. . . .” because; for example, FIG. 3B discloses trivia games promotions, i.e., “*Trivia Games: Win \$. . .*”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; however, even though,

Capiel lacks explicit recitation of “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 9, ll. 1-40; col. 10, ll. 25-58; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “the master database includes a promotional material segment that includes information regarding promotional materials. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col.

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7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 9, ll. 1-40; col. 10, ll. 25-58; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “the master database includes a promotional material segment that includes information regarding promotional materials. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 19, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server*

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*program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and  
*"member\_id and catalog\_id. . . ." etc.*

Capiel (FIG. 3B) inherently shows "the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . ." material

The Examiner interprets these above disclosures as showing "wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . ."; however, even though,

Capiel lacks explicit recitation of "the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "wherein the master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . ."; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing "the



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master database includes a purchasing segment that includes information regarding purchases made by the consumers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 20, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: “*Connect to DB. . . .*”

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 49-53) discloses: “*one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.*”

Capiel (col. 3, ll. 21-43) discloses: “*the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML*

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*information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id. . . ." etc.*

Capiel (FIG. 3B) discloses: *"Keyworded: Tower. . . ."*

Capiel (FIG. 3B) shows "the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . ."

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The Examiner interprets these above disclosures as showing “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 3, ll. 21-43; col. 10, ll. 25-58; col. 12, ll. 51-63 ; col. 13, ll. 10-25, i.e., TABLE 1; col. 3, ll. 42-50; and col. 4, ll. 52-64) implicitly shows “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 3, ll. 21-43; col. 10, ll. 25-58; col. 12, ll. 51-63 ; col. 13, ll. 10-25, i.e., TABLE 1; col. 3, ll. 42-50; and col. 4, ll. 52-64) as implicitly showing “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes

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associated with the keywords. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means *“to identify the audience and tailor the advertising to that audience. . . .”* (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 21, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 15.

Capiel (FIG. 7) discloses: *“Connect to DB. . . .”*

Capiel (col. 10, ll. 25-58) implicitly shows a “master database. . . .”

Capiel (col. 1, ll. 49-53) discloses: *“one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .”* and *“member\_id and catalog\_id. . . .” etc.*

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Capiel (FIG. 3B) discloses: “Shopping Basket . . . Shop AOL . . . Customer Service . . . [and] Advance Orders. . . .”

Capiel (FIG. 3B) inherently shows “the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .”

The Examiner interprets these above disclosures as showing “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the master database includes a URL segment that includes a plurality of URLs with corresponding keywords and plurality[sic] of keycodes associated with the keywords. . . .”; however, even though,

Capiel lacks explicit recitation of “the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG.

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3B; FIG. 7; col. 1, ll. 49-53; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll.10-25, i.e., TABLE 1) as implicitly showing “wherein the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Independent claim 22 is rejected for substantially the same reasons as independent claim 1, except that elements found at lines 5-6 and 17 of claim 1 are missing from claim 22, i.e., lines 5 & 6: “including the web site address in an electronic mail message sent to the email recipient, wherein the web site address provides the email recipient with access to one or more web sites . . . “ and line 17: identifying the email recipient based on the retrieved unique identifier. . . .”; therefore, claim 22 is broader than claim 1.

As per claim 23, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 22.

Capiel (col. 2, ll. 15-20) discloses: “*These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.*”

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Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

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*If Request.QueryString("catid") < > " " Then SQLQuery = "select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (FIG. 7) discloses: *"Get Client's Type of Browser (i.e., client's E-mail  
software)"*

Capiel (FIG. 7) discloses: *"Associate in the DB the Type of Browser with Clients Email  
address. . . ."*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the  
HTML image tag is executed at the E-mail client 142, a request is made to a computer  
located at Internet address 'sensorserver.domain.com' to run program 'sensor server*



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*program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and  
*"member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these disclosures as implicitly showing: "the act of tracking consumer movement within said one or more web sites . . . [and] storing in a log file the unique identifier in association with the information that defines consumer activity within said one or more web sites. . . ."

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the act of tracking consumer movement within said one or more web sites . . . [and] storing in a log file the unique identifier in association with the information that defines consumer activity within said one or more web sites. . . ." ; furthermore,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

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*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail"0=" " Then Call LogError("Error 534: No E-mail  
address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets all the above disclosures as implicitly showing: "searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer

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movement. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .”; however, even though,

Capiel lacks explicit recitation of “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to identify

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*the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Dependent claim 24 is rejected for the same reasons as dependent claim 3, even though explicit detail about the “establishing the connection between the consumer’s computer and the one or more web sites. . . .” limitation is not recited verbatim in claim 3 as it is recited in claim 24, the context of both dependent claims are the same and the connection limitation of claim 24 is inherently a part of claim 3.

Dependent claim 25 is rejected for the same reasons as dependent claim 4, even though explicit detail about the “IP address. . . .” connection limitation is not recited verbatim in claim 4 as it is recited in claim 25, the context of both dependent claims are the same and the “IP address” connection limitation of claim 25 is inherently a part of claim 4.

Dependent claim 26 is rejected for substantially the same reasons as dependent claim 5.

Dependent claim 27 is rejected for substantially the same reasons as dependent claim 6.

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Dependent claim 28 is rejected for substantially the same reasons as dependent claim 7.

Dependent claim 29 is rejected for substantially the same reasons as dependent claim 8.

Dependent claim 30 is rejected for substantially the same reasons as dependent claim 9.

Dependent claim 31 is rejected for substantially the same reasons as dependent claim 10.

Dependent claim 32 is rejected for substantially the same reasons as dependent claim 11.

Dependent claim 33 is rejected for substantially the same reasons as dependent claim 12.

Dependent claim 34 is rejected for substantially the same reasons as dependent claim 13.

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Dependent claim 35 is rejected for substantially the same reasons as dependent claim 14.

Dependent claim 36 is rejected for substantially the same reasons as dependent claim 15.

Dependent claim 37 is rejected for substantially the same reasons as dependent claim 16.

Dependent claim 38 is rejected for substantially the same reasons as dependent claim 17.

Dependent claim 39 is rejected for substantially the same reasons as dependent claim 18.

Dependent claim 40 is rejected for substantially the same reasons as dependent claim 19.

Dependent claim 41 is rejected for substantially the same reasons as dependent claim 20.

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Dependent claim 42 is rejected for substantially the same reasons as dependent claim 21.

As per claim 43, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 1.

Capiel (col. 1, ll. 49-53) discloses: *“one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’ . . . .”* and *“member\_id and catalog\_id . . .” etc.*

Capiel (FIG. 3B) discloses: *“Shopping Basket . . . Shop AOL . . . Customer Service . . . [and] Advance Orders. . . .”*

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address*

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*'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (FIG. 3B; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) inherently shows "the unique identifier is a consumer's credit card information. . . ." at least because the ID number could be any given unique number chosen by a person of ordinary skill in the art.

The Examiner interprets these above disclosures as showing "wherein the unique identifier is a consumer's credit card information. . . ."

Capiel lacks explicit recitation of "wherein the unique identifier is a consumer's credit card information. . . ."; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B;



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FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier is a consumer’s credit card information. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the unique identifier is a consumer’s credit card information. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to identify the audience and tailor the advertising to that audience. . . .” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 44, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 22.

Capiel (col. 1, ll. 49-53) discloses: “one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server

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*program' with parameters 'E-mail address' and 'unique mail code' . . .*" and  
*"member\_id and catalog\_id . . .*" etc.

Capiel (FIG. 3B) discloses: *"Shopping Basket . . . Shop AOL . . . Customer Service . . .*  
*[and] Advance Orders. . ."*

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

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Capiel (FIG. 3B; col. 12, ll. 51-63; and col. 7, ll. 30-60) inherently shows “the unique identifier is a consumer’s credit card information. . . .” because the ID number could be any given unique number chosen.

The Examiner interprets these above disclosures as showing “the unique identifier is a consumer’s credit card information. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “searching the log file for the unique identifier; and extracting the information that defines consumer activity based on its association with the unique identifier to track consumer movement. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the unique identifier is a consumer’s credit card information. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier is a consumer’s credit card information. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the master database includes a credit card segment that includes consumer credit card number, date and amount of purchase by consumer. . . .” because modification

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and interpretation of the cited disclosure of Capiel would have provided means “to identify the audience and tailor the advertising to that audience. . . .” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 45, Applicant is responsible for all that the applied reference discloses. For example, Capiel (6,449,634); (col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 24-26; col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., “A method for electronically identifying a consumer without requiring consumer registration. . . .”

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Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

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Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail"0=" " Then Call LogError("Error 534: No E-mail address passed:"+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where*

*name=?"*

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Set . . .

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 3, ll. 5-10; col. 3, ll. 5-22; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll.

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20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing the claim 1 elements of the instant invention, of “includes a web site address, sent to the consumer in an electronic mail message with a unique identifier. . . .”

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address ‘sensorserver.domain.com’ is for the E-mail sensor server 130, the ‘sensor server program’ is that given in the visual basic script above, the ‘E-mail address’ is that of E-mail client 142, and the ‘unique mail code’ is ‘X-cid: 10424522’ as given in the example of the E-mail sensor message above.”*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., ‘email=’, is included as a parameter in the above HTML ‘src-’ statement along with a unique E-mail code, i.e., ‘catid=’, that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message.”*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *“When the HTML document is executed on the E-mail client, the Java ‘object’ tag is executed and the applet is*



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*downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client's software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosure (i.e., Capiel col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67 ; and col. 8, ll. 1-40) as showing "a unique identifier embedded in a web site address for uniquely identifying the particular consumer; parsing the web site address to find the unique identifier. . . ."

Capiel (col. 1, ll. 43-67) discloses: *"The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . ."*

Capiel (col. 2, ll. 15-20) discloses: *"These embodiments may also include monitoring the status of the E-mail message received at the E-mail client."*

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Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“‘Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery=“select opened,opened\_count from catalogs where catalog\_id=”+*

*Request.QueryString(“catid”)*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

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*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),  
Opened\_count=1 where catalog\_id="+  
Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id. . . ." etc.*

The Examiner interprets these disclosures as implicitly showing: "logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers."

Capiel lacks explicit recitation of "logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on

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the client computer by any servers. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “logging the unique identifier in one or more log files in association with information that defines consumer activity within said one or more web sites, independent from any consumer profile information previously stored on the client computer by any servers. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per Claim 46, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 45.

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Capie! (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where  
name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

*If Request.QueryString(“catid”) < > “ ” Then SQLQuery=“select opened,opened\_count  
from catalogs where catalog\_id=”+*

*Request.QueryString(“catid”)*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields(“opened”).ActualSize=0 Then SQLQuery=“update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id=”+*

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*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ." and "member\_id and catalog\_id . . ." etc.*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . ."; however, even though,

Capiel lacks explicit recitation of "extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . ."; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 12, ll. 53-

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61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) implicitly shows “extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; and col. 12, ll. 10-13) as implicitly showing “extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 47, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 45. Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows “associating the unique identifier with at least one of the connection and environment specific information such that information that defines consumer activity. . . .”; furthermore,

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Capiel (FIG. 7) discloses: *"Connect to DB. . . ."*

Capiel (col. 4, ll. 23-30) discloses: *"The E-mail sensor database . . . includes information on the E-mail client profile, E-mail client software type and version, whether or not the E-mail client can process an display HTML. . . ."*

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 4, ll. 23-30; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) shows "identifying at least one connection and environment specific information related to the established connection between the consumer's computer and the one or more web sites

Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML*



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*information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

The Examiner interprets these above disclosures as showing: "wherein the consumer request is received through a connection established between the consumer's computer and the one or more web sites . . . wherein at least one of the connection and environment specific information is automatically logged in correspondence with the information that defines consumer activity. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein the consumer request is received through a connection established between the consumer's computer and the one or more web sites . . . wherein at least one of the connection and environment specific information is automatically logged in correspondence with the information that defines consumer activity. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "extracting the information that defines consumer activity based on said association with the unique identifier to track consumer movement. . . ."; however, even though,

Capiel lacks explicit recitation of "consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 21-43; col. 3, ll. 5-22; col. 3, ll. 5-10; col. 4, ll. 23-30; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 13, ll. 5-

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10; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) implicitly shows “consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 21-43; col. 3, ll. 5-22; col. 3, ll. 5-10; col. 4, ll. 23-30; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 13, ll. 5-10; and col. 13, ll. 10-25, i.e., TABLE 1; and col. 12, ll. 10-13) as implicitly showing “consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to identify the audience and tailor the advertising to that audience. . . .” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)); “consumer activity can be extracted based on the association between at least one of the connection and environment specific information and the unique identifier.”

As per claim 48, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

Capiel (FIG. 7) discloses: “Get Client’s Type of Browser (i.e., client’s E-mail software) . . . ” [and] “Associate in the DB the Type of Browser with Clients Email address”.

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Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

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Set . . .

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back*

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*to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

Capiel (col. 4, ll. 23-30) discloses: *"The E-mail sensor database . . . includes information on the E-mail client profile, E-mail client software type and version, whether or not the E-mail client can process an display HTML. . . ."*

The Examiner interprets the above disclosures as showing: "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; therefore,

Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 30-60; col. 7, ll. 64-67; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 13, ll. 5-10; col. 12, ll. 1-13; col. 12, ll. 53-61; and col. 13, ll. 10-25, i.e., TABLE 1) shows "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; however, even though,

Capiel lacks explicit recitation of "wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer's computer. . . ."; it would have been obvious to a person of ordinary skill in the art at the

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time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 13, ll. 5-10; col. 12, ll. 1-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer’s computer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 3, ll. 5-22; col. 7, ll. 30-60; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 11, ll. 20-45; col. 13, ll. 5-10; col. 12, ll. 1-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein at least one of the connection and environment specific information relates to IP[sic] address of the consumer’s computer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 49, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

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Capiel (col. 1, ll. 49-53) discloses: *“one goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products.”*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’ . . . .”* and *“member\_id and catalog\_id . . . .”* etc.

Capiel (FIG. 3B) discloses: *“Shopping Basket . . . Shop AOL . . . Customer Service . . . [and] Advance Orders . . . .”*

Capiel (col. 12, ll. 51-63) discloses: *“When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. In this specific example, the internet address ‘sensorserver.domain.com’ is for the E-mail sensor server 130, the ‘sensor server program’ is that given in the visual basic script above, the ‘E-mail address’ is that of E-mail client 142, and the ‘unique mail code’ is ‘X-cid: 10424522’ as given in the example of the E-mail sensor message above.”*

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Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (FIG. 3B; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) inherently shows "the unique identifier relates to credit card information of the consumer. . . ." at least because the ID number could be any given unique number chosen by a person of ordinary skill in the art.

The Examiner interprets these above disclosures as showing "wherein the unique identifier relates to credit card information of the consumer. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "wherein the unique identifier relates to credit card information of the consumer. . . ."; however, even though,

Capiel lacks explicit recitation of "wherein the unique identifier relates to credit card information of the consumer. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ;



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and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier relates to credit card information of the consumer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 49-53; col. 7, ll. 30-60; col. 10, ll. 25-58; col. 12, ll. 51-63 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the unique identifier relates to credit card information of the consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 50, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: “*When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address ‘sensorserver.domain.com’ to run program ‘sensor server program’ with parameters ‘E-mail address’ and ‘unique mail code’. . . .*” and “*member\_id and catalog\_id. . . .*” etc.

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Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the unique identifier relates to [sic] electronic mail of the consumer. . . ."

The Examiner interprets these above disclosures as showing "wherein the unique identifier relates to [sic] electronic mail of the consumer. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed

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element and limitations of “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel (col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel (col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “wherein the unique identifier relates to [sic] electronic mail of the consumer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 51, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 47.

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Capiel (col. 2, ll. 8-13) discloses: “*The processing may further determine if hyper text mark up language (HTML) statements or dynamic HTML (DHTML) statements or Java applets can be executed by the E-mail client.*”

Capiel (col. 4, ll. 23-30) discloses: “*The E-mail sensor database . . . includes information on the E-mail client profile, E-mail client software type and version, whether or not the E-mail client can process an display HTML . . . . The sensor database may be a relational SQL database implemented for example on a personal computer or on a UNIX server. . . .*”

The Examiner interprets these above disclosures as showing “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; however, even though,

Capiel lacks explicit recitation of “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 2, ll. 8-13; and col. 4, ll. 23-30) implicitly shows “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .”; and it would have been obvious to modify and interpret the

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disclosure of Capiel at least at (col. 2, ll. 8-13; and col. 4, ll. 23-30) as implicitly showing “wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer’s computer. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 52, Applicant is responsible for all that the applied reference discloses. For example,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., an “established connection independent from any consumer profile information previously stored on the client computer. . . .”

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Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

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Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

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*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 3, ll. 5-10; col. 3, ll. 5-22; col. 3, ll. 21-43; col. 3, ll. 42-50; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll.



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20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing the claim 1 elements of the instant invention, of "including the web site address in an electronic mail message sent to the email recipient, wherein the web site address provides the email recipient with access to one or more web sites; establishing a connection between a client computer used by the email recipient to receive the email and a server computer providing access to the one or more web sites, in response to the email recipient selecting a reference to the web site address included in the electronic mail message. . . ."

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

Capiel (col. 6, ll. 17-18) discloses: *http://Vendor.m0.net/m/w/t.asp?E-mail=gcapiel%40digital-impact.tngi.com. . .*

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor*

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*message example given above, email=gcapiel@digital-impact.com, which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message."*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosure (i.e., Capiel col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67; and col. 8, ll. 1-40) as showing "A unique identifier embedded in a URL provided to a consumer by way [sic] electronic mail, such that when the consumer selects the URL a connection is established between a consumer computer having a first IP address and a web server providing access to one or more web sites, wherein the web server receives the URL via said established connection independent from any consumer profile information previously stored on the client computer, wherein the web server parses the URL for the unique identifier. . . ."

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Capiel (col. 1, ll. 43-67) discloses: *"The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . ."*

Capiel (col. 2, ll. 15-20) discloses: *"These embodiments may also include monitoring the status of the E-mail message received at the E-mail client."*

Capiel (col. 13, ll. 5-10) discloses: *"the date and time the E-mail client first opens the E-mail message is stored in 'opened'; and the count of number of times the E-mail message is opened is stored in 'open\_count'."*

Capiel (col. 12, ll. 10-13) discloses:

*"Log when the catalog was first opened and how many times since"*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where name=?"*

*Set . . .*

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*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the*

*HTML image tag is executed at the E-mail client 142, a request is made to a computer*

*located at Internet address 'sensorserver.domain.com' to run program 'sensor server*

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*program' with parameters 'E-mail address' and 'unique mail code' . . . "* and  
*"member\_id and catalog\_id . . . " etc.*

The Examiner interprets these above disclosures as implicitly showing: "wherein the IP address is recorded in a log file in association with the unique identifier. . . ."; the above disclosures clarify why the Examiner relied upon Official Notice evidence, i.e., permissible hindsight stating that "It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel . . . would have been selected in accordance with "the IP address is recorded in a log file in association with the unique identifier. . . ." in support of the claimed element and limitations of "wherein at least one of the connection and environment specific information relates to an operating system executing on the consumer's computer. . . ."; furthermore, even though,

Capiel lacks explicit recitation of "the IP address is recorded in a log file in association with the unique identifier. . . ."; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "the IP address is recorded in a log file in association with the unique identifier. . . ."; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 1, ll. 43-67;

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col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “the IP address is recorded in a log file in association with the unique identifier. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per independent claim 75, Applicant is responsible for all that the applied reference discloses. For example, Capiel (col. 1, ll. 24-26) discloses: “*Vendor lists of prior customers provide a basis to identify the target audience.*”

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: “*The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.*”

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 24-26; col. 1, ll. 45-67; and col. 3, ll. 52-58, as well as col. 2, ll. 1-20; and col. 5, ll. 1-20) as showing the claim 1 preamble of the instant invention, i.e., “A computer-implemented method for electronically tracking web pages visited by an email recipient without requiring advanced registration. . . .”

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Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 3, ll. 5-10) discloses: *"E-mail server 134 . . . sends E-mail to . . . the E-mail clients."*

Capiel (col. 3, ll. 5-22) discloses: *"Internet 110 connects several vendor systems . . . to the E-mail sensor server 130. Internet 140 connects several E-mail clients . . . to the E-mail sensor server 130 and Email server 134. Thus the E-mail sensor server 130 serves as a middleman information collection point between the vendor systems . . . and the E-mail clients. . . ."*

Capiel (col. 3, ll. 21-43) discloses: *"the vendor's . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site's web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

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Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

Also see Capiel (FIG. 4; and FIG. 6).

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType="image/JPG"*

*If Request.QueryString("E-mail"0=" " Then Call LogError("Error 534: No E-mail address passed:")+*

*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*



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*End If*

*Set getClientIdCmd=Server.CreateObject("ADODB.Command")*

*getClientIdCmd.ActiveConnection=oConn*

*getClientIdCmd.CommandType=1*

*getClientIdCmd.CommandText="select em\_client-id from E-mail\_clients where  
name=?"*

*Set . . .*

*E-mailId=oRs.Fields.Item("em\_client\_id")oRs.Close*

*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and how many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

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*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . .*

The Examiner interprets the above disclosures (i.e., Capiel col. 1, ll. 45-67; col. 2, ll. 1-20; col. 3, ll. 5-67; and col. 4, ll. 60-64; as well as col. 5, ll. 38-67; col. 6, ll. 20-67; col. 7, ll. 1-18; col. 7, ll. 27-64) as showing "establishing a connection between a server computer and a client computer used by the email recipient to receive the email, in response to the email recipient selecting the link, wherein the server computer provides access to the one or more web pages identified by the URL. . . ."

Capiel (col. 12, ll. 51-63) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. In this specific example, the internet address 'sensorserver.domain.com' is for the E-mail sensor server 130, the 'sensor server program' is that given in the visual basic script above, the 'E-mail address' is that of E-mail client 142, and the 'unique mail code' is 'X-cid: 10424522' as given in the example of the E-mail sensor message above."*

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Capiel (col. 6, ll. 17-18) discloses: <http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com>. . . .

Capiel (col. 7, ll. 30-60) discloses: *The E-mail address of each recipient, i.e., 'email=', is included as a parameter in the above HTML 'src-' statement along with a unique E-mail code, i.e., 'catid=', that is unique to every E-mail delivered. In the E-mail sensor message example given above, [email=gcapiel@digital-impact.com](mailto:gcapiel@digital-impact.com), which represents, in this example, the Internet address of E-mail client 142, and catid=10424522, which represents the unique identifier assigned to this E-mail sensor message.*

Furthermore, Capiel (col. 4, ll. 58-65) discloses: *"FIG. 3A shows a simplified display of an E-mail sensor message that a user may view at his/her Netscape E-mail client on his/her home PC."*

Capiel (FIG. 3A) in general shows an e-mail message sent to a client, and Capiel (FIG. 3A, last line) discloses: *"<http://tower.m0.net/m/u/t.asp?email=gcapiel%40digital-impact.tngi.com>. . . ." which includes [email=gcapiel@digital-impact.com](mailto:gcapiel@digital-impact.com) which is the unique identifier embedded within the web site address: <http://Vendor.m0.net/m/u/t.asp?E-mail=gcapiel%40digital-impact.tngi.com>. . . . and the unique identifier uniquely identifying an email recipient.*

Capiel (col. 7, ll. 64-67; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is*

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*downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client's software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosure (i.e., Capiel (col. 4, ll. 58-65; FIG. 3A; col. 6, ll. 17-18; col. 12, ll. 51-63; col. 7, ll. 30-60; and col. 7, ll. 64-67; and col. 8, ll. 1-40)) as showing "embedding a unique identifier within a uniform resource locator (URL), the unique identifier uniquely identifying an email recipient, the URL identifying one or more web pages; including the URL in [sic] form of a link in an email sent to the email recipient, wherein selecting the link provides the email recipient with access to the one or more web pages . . . providing the unique identifier to the server computer by way of a request submitted by the client computer to access said one or more web pages, independent from any profile information previously stored on the client computer, wherein the request includes the URL in which the unique identifier is embedded; parsing the URL in the request to retrieve the unique identifier embedded in the URL; identifying the email recipient based on the retrieved unique identifier. . . ."

Capiel (col. 1, ll. 43-67) discloses: "*The present invention describes a method and system for analyzing an E-mail client. . . . The E-mail client may be, for example, the*

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*home personal computer and E-mail client software . . . which a person uses to access his/her E-mail. . . . The invention . . . tracks the responses of the E-mail clients . . . that responds positively to targeted advertisements with images. . . .”*

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

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*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ."* etc.

The Examiner interprets these above disclosures as implicitly showing: "automatically storing the unique identifier in association with the IP address of the client computer n a

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log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”;

the above disclosures clarify why the Examiner relied upon Official Notice evidence, i.e., permissible hindsight stating that “It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Capiel . . . would have been selected in accordance with “embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .” in support of the claimed element and limitations of “embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; furthermore, even though,

Capiel lacks explicit recitation of “automatically storing the unique identifier in association with the IP address of the client computer in a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; it would have been obvious to a person of

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ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (col. 6, ll. 17-18; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel cited at least at (col. 6, ll. 17-18; col. 1, ll. 43-67; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) as implicitly showing “automatically storing the unique identifier in association with the IP address of the client computer n a log file of the server computer; and automatically storing access information about the one or more web pages visited by the email recipient in association with the IP address of the client computer in the log file of the server computer . . . as well as embedding a unique identifier within a uniform resource locator (URL), the unique identifier identifying an email recipient, the URL identifying one or more web pages. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to identify the audience and tailor the advertising to that audience. . . .” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify



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Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

As per claim 76, Applicant is responsible for all that the applied reference discloses. For example, Capiel shows the method of claim 75.

Capiel (col. 2, ll. 15-20) discloses: *“These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.”*

Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

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*'Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject("ADODB.Command")*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*'Log when the catalog was first opened and ho many time since*

*If Request.QueryString("catid")<>" " Then SQLQuery="select opened,opened\_count  
from catalogs where catalog\_id="+*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id="+*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ."* etc.

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Capiel (FIG. 7) discloses: *"Get Client's Type of Browser (i.e., client's E-mail software)"*

Capiel (FIG. 7) discloses: *"Associate in the DB the Type of Browser with Clients Email address. . . ."*

The Examiner interprets these disclosures as implicitly showing: "cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . ."

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13; col. 12, ll. 53-61; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows "cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . ."; furthermore,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *"The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text."*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

```
Response.ContentType="image/JPG"  
If Request.QueryString("E-mail")="" Then Call LogError("Error 534: No E-mail  
address passed:") +  
Request.QueryString("E-mail"))  
Exit Sub  
End If  
oConn.open Session ("DIDB_ConnectionString")  
browserType=Request.ServerVariables("HTTP_User_Agent")  
If browserType="" Then  
BrowserType="HTML"
```

Capiel (col. 7, ll. 64-67; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client's software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

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The Examiner interprets the above disclosures as implicitly showing: “extracting the access information for a particular email recipient. . . .”

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed elements and limitation of “extracting the access information for a particular email recipient. . . .”; furthermore, even though,

Capiel lacks explicit recitation of “extracting the access information for a particular email recipient. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “extracting the access information for a particular email recipient. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “extracting the access information for a particular email recipient. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

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As per claim 77, Applicant is responsible for all that the applied reference discloses.

For example, Capiel shows the method of claim 75.

Capiel (col. 3, ll. 21-43) discloses: *“the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail sensor server 130. . . . The E-mail server 134 would . . . include Vendor A’s HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A’s customer list. . . .”*

Capiel (col. 3, ll. 42-50) discloses: *“The E-mail client display includes any hyperlinks to Vendor’s A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by ‘clicking’ on a HTML hyperlink displayed at the E-mail client’s computer could then display a vendor’s Web page (This is later shown in FIGS. 3A and 3B).”* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *“the visual images . . . results by the user ‘clicking’ on the . . . hyperlink . . . to the . . . home page.”*

The Examiner interprets these disclosures as implicitly showing: “an address of a web page visited by the email recipient. . . .”

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Capiel at least at (col. 10, ll. 26-67; and FIG. 7) discloses: *"the E-mail sensor first executes the HTML image tag in an HTML enabled E-mail client. . . . If the E-mail message has been opened for a second or grater time . . . then an E-mail counter is incremented in the E-mail sensor database. . . . This typically occurs every time the E-mail client software re-opens the E-mail message and executes the HTML image tag which again calls the sensor server program o the E-mail sensor server . . . and increments the counter. In another specific embodiment a JavaScript or Java applet could be used to monitor how long a time interval the E-mail message is open. . . ."*

Capiel at least at (col. 11, ll. 1-35) *"oConn.open Session ('DIDB\_connectionsString') browsweType=Request.ServerVariables('HTTP\_User\_Again')"*

The Examiner interprets these disclosures as implicitly showing: "wherein the log file includes duration of the consumer's visit to a particular web site."

Capiel at least at (FIG. 3B) implicitly shows "wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .";

Capiel at least at (FIG. 3B) discloses an online: *"shopping basket. . . ."*

Capiel at least at (FIG. 3B) discloses: *"Shop AOL. . . ."*

Capiel at least at (col. 1, ll. 43-65) discloses: *"One goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products. . . ."*

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The Examiner interprets these disclosures as implicitly showing: “purchase information during of[sic] the visit. . . .”

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; furthermore, even though,

Capiel lacks explicit recitation of “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE

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1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Independent claim 78 is rejected for the same reasons as independent claim 75.

Dependent claim 79 is rejected for the same reasons as dependent claim 76.

Dependent claim 80 is rejected for the same reasons as dependent claim 77.

Independent claim 81 is rejected for the same reasons as independent claim 75.

As per claim 82, Applicant is responsible for all that the applied reference discloses.

For example, Capiel shows the method of claim 81.

Capiel (col. 2, ll. 15-20) discloses: “*These embodiments may also include monitoring the status of the E-mail message received at the E-mail client.*”



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Capiel (col. 13, ll. 5-10) discloses: *“the date and time the E-mail client first opens the E-mail message is stored in ‘opened’; and the count of number of times the E-mail message is opened is stored in ‘open\_count’.”*

Capiel (col. 12, ll. 10-13) discloses:

*“Log when the catalog was first opened and how many times since”*

*getClientIdCmd.CommandText=“select em\_client-id from E-mail\_clients where name=?”*

*Set . . .*

*E-mailId=oRs.Fields.Item(“em\_client\_id”)oRs.Close*

*‘Now update the E-mail address with the E-mail client type information*

*Set updateE-mailMetaCmd=Server.CreateObject(“ADODB.Command”)*

*updateE-mailMetaCmd.ActiveConnection=oConn*

*updateE-mailMetaCmd.CommandType=1 . . . .*

*‘Log when the catalog was first opened and ho many time since*

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*If Request.QueryString("catid") < > " " Then SQLQuery = "select opened,opened\_count  
from catalogs where catalog\_id=" +*

*Request.QueryString("catid")*

*Set oRs=oCom.Execute(SQLQuery)*

*If Not oRs.EOF Then*

*If oRsFields("opened").ActualSize=0 Then SQLQuery="update catalogs set  
opened=getdate(),*

*Opened\_count=1 where catalog\_id=" +*

*Request.QueryString("catid"). . . .*

Capiel (col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) discloses: *"When the HTML image tag is executed at the E-mail client 142, a request is made to a computer located at Internet address 'sensorserver.domain.com' to run program 'sensor server program' with parameters 'E-mail address' and 'unique mail code'. . . ."* and *"member\_id and catalog\_id. . . ."* etc.

Capiel (FIG. 7) discloses: *"Get Client's Type of Browser (i.e., client's E-mail software)"*

Capiel (FIG. 7) discloses: *"Associate in the DB the Type of Browser with Clients Email address. . . ."*

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The Examiner interprets these disclosures as implicitly showing: “cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . .”

Capiel at least at (col. 1, ll. 43-67; col. 2, ll. 15-20; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 13, ll. 5-10; col. 12, ll. 10-13 ; col. 12, ll. 53-61 ; and col. 13, ll. 10-25, i.e., TABLE 1) implicitly shows “cross-referencing the IP address of the client computer used by the particular email recipient with respective access information and unique identifier stored in the log file in association with the IP address. . . .”; furthermore,

Capiel (col. 1, ll. 45-67; and col. 3, ll. 52-58) discloses: *“The present invention detects through an E-mail sensor message, the file format that an E-mail client can process and display. Thus those E-mail clients that can display images can receive compatible visual image advertisements and those that cannot receive text.”*

Capiel (col. 11, ll. 20-45; and col. 12, ll. 1-17) discloses:

*Response.ContentType=“image/JPG”*

*If Request.QueryString(“E-mail”0= “ Then Call LogError(“Error 534: No E-mail address passed.”+*

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*Request.QueryString("E-mail"))*

*Exit Sub*

*End If*

*oConn.open Session ("DIDB\_ConnectionString")*

*browserType=Request.ServerVariables("HTTP\_User\_Agent")*

*If browserType="" Then*

*BrowserType="HTML"*

Capiel (col. 7, ll. 64-67 ; and col. 8, ll. 1-40) discloses: *"When the HTML document is executed on the E-mail client, the Java 'object' tag is executed and the applet is downloaded from the Uniform Resource Locator (URL) specified in the tag, for example, the E-mail sensor server 130. The applet is executed and connection is established back to the E-mail sensor server 130. The E-mail client' software type, i.e., 'browserType', and E-mail address, i.e., 'urlinfo', is sent from the E-mail client to the E-mail sensor server. . . ."*

The Examiner interprets the above disclosures as implicitly showing: "extracting the access information for a particular email recipient. . . ."

the above disclosures clarify why the Examiner relied upon Official Notice evidence in support of the claimed element and limitations of "extracting the access information for a particular email recipient. . . ."; furthermore, even though,

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Capiel lacks explicit recitation of “extracting the access information for a particular email recipient. . . .”; it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “extracting the access information for a particular email recipient. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 7; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “extracting the access information for a particular email recipient. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “to identify the audience and tailor the advertising to that audience. . . .” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).

Capiel (col. 3, ll. 21-43) discloses: “the vendor’s . . . may have their own hypertext markup language (HTML) documents which include visual images. The vendor may for example, have his own World Wide Web home site with the site’s web pages containing these HTML documents. Vendor A112, for example, would then pass its HTML document information along with its E-mail client customer list through internet 110, to the E-mail

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*sensor server 130. . . . The E-mail server 134 would . . . include Vendor A's HTML information in the E-mail sensors sent out to all E-mail clients listed on Vendor A's customer list. . . ."*

Capiel (col. 3, ll. 42-50) discloses: *"The E-mail client display includes any hyperlinks to Vendor's A HTML document and any visual images that are the result of executing the HTML statements. For example, an E-mail client by 'clicking' on a HTML hyperlink displayed at the E-mail client's computer could then display a vendor's Web page (This is later shown in FIGS. 3A and 3B)."* NOTE: It is well known in the art that Web pages are composed of HTML code.

Capiel (col. 4, ll. 52-64) discloses: *"the visual images . . . results by the user 'clicking' on the . . . hyperlink . . . to the . . . home page."*

The Examiner interprets these disclosures as implicitly showing: "an address of a web page visited by the email recipient. . . ."

Capiel at least at (col. 10, ll. 26-67; and FIG. 7) discloses: *"the E-mail sensor first executes the HTML image tag in an HTML enabled E-mail client. . . . If the E-mail message has been opened for a second or greater time . . . then an E-mail counter is incremented in the E-mail sensor database. . . . This typically occurs every time the E-mail client software re-opens the E-mail message and executes the HTML image tag which again calls the sensor server program o the E-mail sensor server . . . and*

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*increments the counter. In another specific embodiment a JavaScript or Java applet could be used to monitor how long a time interval the E-mail message is open. . . .*

Capiel at least at (col. 11, ll. 1-35) “*oConn.open Session ('DIDB\_connectionsString') browsweType=Request.ServerVariables('HTTP\_User\_Again')*”

The Examiner interprets these disclosures as implicitly showing: “duration of the [consumer’s] visit [to a particular web site].”

Capiel at least at (FIG. 3B) implicitly shows “wherein the plurality of links to other web pages includes a link to a web page from where the consumer purchases merchandise. . . .”;

Capiel at least at (FIG. 3B) discloses an online: “*shopping basket. . . .*”

Capiel at least at (FIG. 3B) discloses: “*Shop AOL. . . .*”

Capiel at least at (col. 1, ll. 43-65) discloses: “*One goal is to develop a customer base which receives visual advertisements targeted to their interests and that respond by buying the advertised products. . . .*”

The Examiner interprets these disclosures as implicitly showing: “purchase information during of[sic] the visit. . . .”

Capiel lacks explicit recitation of “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; however, it would have been obvious to a person of ordinary skill in the art at the time of the invention that that the disclosure

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of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) implicitly shows “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .”; and it would have been obvious to modify and interpret the disclosure of Capiel at least at (FIG. 3B; FIG. 7; col. 1, ll. 43-65; col. 3, ll. 21-43; col. 3, ll. 42-50; col. 4, ll. 52-64; col. 7, ll. 64-67 ; col. 8, ll. 1-40; col. 10, ll. 26-67; col. 11, ll. 1-35; col. 12, ll. 53-61 ; col. 11, ll. 20-45; col. 12, ll. 1-17; col. 13, ll. 10-25, i.e., TABLE 1; col. 2, ll. 15-20; col. 13, ll. 5-10; col. 1, ll. 45-67; and col. 3, ll. 52-58) as implicitly showing “wherein the access information comprises at least one of: an address of a web page visited by the email recipient; duration of the visit, and purchase information during of[sic] the visit. . . .” because modification and interpretation of the cited disclosure of Capiel would have provided means “*to identify the audience and tailor the advertising to that audience. . . .*” (see Capiel (col. 1, ll. 22-34)), based on the motivation to modify Capiel so as to “develop a customer base . . . that respond by buying . . . advertised products. . . .” (see Capiel (col. 1, ll. 50-53)).



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Therefore, as to claims 1-52 and 75-82, it is well settled that the test for a *prima facie* case of obviousness is not whether the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the teachings of the references would have suggested in the broadest interpretation to those of ordinary skill in the art. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

It is also well settled in the law that

35 U.S.C. 103 authorizes a rejection where, to meet the claim, it is necessary to modify a single reference or to combine it with one or more other references. After indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action:

( a ) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,

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( B ) the difference or differences in the claim over the applied reference(s),

( C ) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and

( D ) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

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To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Applicant's disclosure. . . . (See MPEP 706.02(j)).

In this case, the Prior Office Action relies upon the combined teachings, suggestions and motivations found in the applied reference as well as the knowledge generally available to one of ordinary skill in the art and does not include knowledge gleaned from the Applicant's disclosure. Furthermore, the prior Office action indicates the requisite "reasonable expectation of success" is established by virtue of modifying the teachings of the patent to Capiel without rendering the references unsuitable for its intended purpose. Furthermore, the modification of the teachings in the prior art reference suggests all the claim limitations. Finally, the teachings and suggestions for the basis of the modifications and the reasonable expectation of success are both found in the prior art and not based on Applicant's disclosure.

**(12) Examiner's Answer, Conclusion**

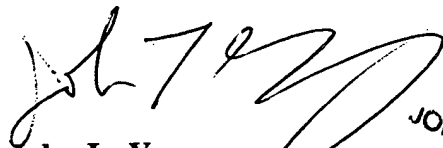
For all of the reasons stated above, Appellant's brief fails to overcome the obviousness rejections of claims 1-52 & 75-82. And for the above stated reasons, the rejections must be sustained.

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November 15, 2004

Respectfully, presented,

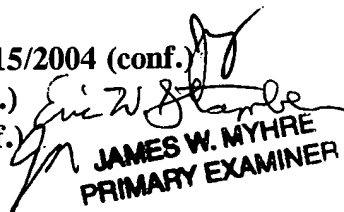
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ES (conf.)

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